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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

18 Cr. 759 (RMB)

5 JAMES MOORE,

6 Defendant.

7 -----x

Teleconference

8 June 24, 2020

9 10:00 a.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13  
14 APPEARANCES

15 AUDREY STRAUSS

16 Acting United States Attorney for  
the Southern District of New York

17 BY: MARTIN S. BELL

VLADISLAV VAINBERG

18 Assistant United States Attorneys

19 TARTER KRINSKY & DROGIN, LLP

20 Attorney for Defendant

21 BY: MICHAEL J. GRUDBERG

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1 THE LAW CLERK: Judge, we have on the call defense  
2 counsel Michael Grudberg, AUSA Vladislav Vainberg. We also  
3 have the court reporter on the phone. Mr. Vainberg was unsure  
4 if Mr. Bell was joining, but I would --

5 MR. VAINBERG: Yes, Mr. Bell is joining, but we can go  
6 ahead and proceed, and he will be on in less than a minute.

7 THE COURT: Okay. So --

8 (Chime)

9 THE COURT: That may be him.

10 MR. BELL: Hi, it's Mr. Bell. Sorry.

11 THE COURT: No problems. So we are just about to  
12 begin.

13 This is Judge Berman. We had a conference or two,  
14 actually, back in April, the 8th and the 10th, regarding  
15 Mr. Moore's transfer to Butner; and, to make a long story  
16 short, at the last conference, April 16, 2020, we were advised,  
17 I had been and mentioned to you all, that Mr. Moore was on his  
18 way to Butner.

19 Subsequently, on April 30, 2020, I got a very nice  
20 letter from T. Scarantino, who is the warden of FMC Butner, and  
21 the warden advised that Mr. Moore had been admitted to the  
22 mental health unit of FMC Butner on or about April 16, 2020.

23 The letter goes on to say that currently the assigned  
24 treatment team members are conducting interviews and  
25 psychological testing, which are necessary to complete his

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1 evaluation.

2 It goes on to say: "We have calculated the evaluation  
3 period to end August 13, 2020."

4 And finally it says that: "My staff will attempt to  
5 complete the evaluation as soon as possible and have a final  
6 report to the court within 14 working days of the end date."

7 So that is everything that I know about Mr. Moore's  
8 status. Perhaps you all have more up-to-date information.

9 Counsel.

10 MR. GRUDBERG: Good morning, your Honor. This is  
11 Mr. Grudberg.

12 I did reach out -- and I know we have discussed in  
13 prior conferences the BOP e-mail system through which family  
14 and counsel can communicate with inmates. I did reach out in  
15 advance of the conference to Mr. Moore just to see what I could  
16 learn from him by way of update. I will say that back in April  
17 a person named Dawn McCrae, who was the health services  
18 assistant and I think she is the person who passed along  
19 Warden Scarantino's correspondence to the court, she contacted  
20 the parties for materials related to the case. I sent along to  
21 her Dr. Kissin's report and some other materials, the charging  
22 instrument, for instance, and let her know that I would be  
23 available to the team. I have not heard from the treatment  
24 team since that time.

25 Just to come back to Mr. Moore, he reported to me

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1 that -- has generally reported, in the infrequent contact that  
2 we have had, that for COVID-19 health protocol reasons he is  
3 largely individually confined and doesn't get out that often to  
4 be able to access the computer for communicating with me.

5 But the latest from him, I don't have particularly  
6 what I call HIPAA type details, but he did report that there  
7 has been a recent change in his medication and he gave me the  
8 bottom-line conclusion that his impression of the doctors that  
9 he is working with is that he has not been restored yet. So I  
10 don't know the significance of that within the schedule, the  
11 August 13 schedule that the warden has described. But I do  
12 want to pass along that there has been some change in  
13 medication.

14 I should also report that, though I haven't spoken in  
15 substance with the treatment team, I am advised that they did  
16 reach out for some sort of clinical history from Mr. Moore's  
17 wife. I provided the contact information for her. So I know  
18 that that has occurred.

19 THE COURT: Did he indicate if he was well or how he  
20 was feeling physically or anything like that or no?

21 MR. GRUDBERG: Yeah, he did report to me, your Honor,  
22 that he is getting along pretty well. He is obviously  
23 frustrated, like everybody in the system and maybe everybody in  
24 the world now, with the restrictions on his activities and his  
25 movements owing to the COVID-19 protocols, but I think he was

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1 feeling in pretty good spirits and advised that he is  
2 cooperating with the course of treatment and doing the best he  
3 can but had no complaints.

4 And just to bring it back to where we started with all  
5 of this, in April, I should also report to the court that his  
6 physical health seems not to have any complications related to  
7 the virus or otherwise.

8 THE COURT: Oh, great.

9 Government, did you want to add anything?

10 MR. BELL: Hi, Judge. It's Martin Bell.

11 No, we have nothing to add to that factual update.

12 THE COURT: What do you think we should do in terms of  
13 setting a future calendar date? Perhaps another status  
14 conference such as this one? And, if so, what would you think  
15 about I guess late August, later in August?

16 MR. BELL: Judge, I think that an update along those  
17 lines makes sense, and we will see what we learn from either  
18 Butner personnel or through Mr. Grudberg at that point.  
19 Sometime in August, perhaps the back end of August, makes sense  
20 to us, Judge.

21 THE COURT: Is that all right with you, Mr. Grudberg,  
22 as to a date? I am wide open. You just let me know what is  
23 convenient for both of you.

24 MR. GRUDBERG: I do think that is sensible, Judge. I  
25 have -- though I'm an optimist about the world coming back on,

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1 but I have no plans to be anywhere in August other than New  
2 York. So any time in the latter half of August would work.  
3 And obviously if I learn anything more from Mr. Moore that I  
4 think requires the court's and the parties' attention, I will  
5 bring it around. But I think an August control date is  
6 sensible.

7 THE COURT: Great.

8 Christine, I would think maybe the last week in August  
9 sometime.

10 THE LAW CLERK: How is August 26 at 10 a.m.?

11 THE COURT: Two-six did you say?

12 THE LAW CLERK: I did.

13 THE COURT: What day of the week is that?

14 THE LAW CLERK: That is a Wednesday.

15 THE COURT: Does that work for all of you?

16 MR. BELL: It works for the government, Judge.

17 MR. VAINBERG: It works for the government.

18 MR. GRUDBERG: Yes, Judge.

19 THE COURT: Great.

20 Martin, could you do me a favor and order a copy of  
21 the transcript of today's proceeding? So, it is helpful to  
22 have a record going forward.

23 MR. BELL: Sure. And if I may ask the court reporter  
24 to send me the new handy electronic form, I would be most  
25 grateful, and I will turn it around, at martin.bell@usdoj.gov.

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1 Thank you.

2 THE COURT: That's great.

3 All right. Good to talk to you all. If I don't talk  
4 to you before, it will be sometime -- it will be August I think  
5 we said 26. Great. Thanks.

6 COUNSEL: Thank you, Judge.

7 COUNSEL: Thank you, your Honor.

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